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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding no.	92078395
Party	Plaintiff Guns N' Roses
Correspondence address	JILL M. PIETRINI SHEPPARD MULLIN RICHTER & HAMPTON 1901 AVENUE OF THE STARS, SUITE 1600 LOS ANGELES, CA 90067 UNITED STATES Primary email: TrademarksCC@Sheppardmullin.com Secondary email(s): LGlenn@Sheppardmullin.com, RW-alsh@Sheppardmullin.com, MDanner@Sheppardmullin.com, PBost@Sheppardmullin.com, BAighboboh@Sheppardmullin.com, RLHudson@Sheppardmullin.com 310-228-3700
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Signature	/Paul A Bost/
Date	07/05/2022
Attachments	Opposition to Motion to Compel and Decl of Paul Bost in Support.pdf(223640 bytes) Exhibits A-E.pdf(4517184 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

<p><i>In re Matter of Reg. No. 5,078,499 for the trademark TEXAS GUNS AND ROSES.COM & Design in Classes 6 and 35</i></p> <p></p> <p>Guns N’ Roses, Petitioner, v. Jersey Village Florist, LLC, Registrant.</p>	<p>Cancellation No. 92-078395</p> <p>PETITIONER GUNS N’ ROSES’ OPPOSITION TO REGISTRANT JERSEY VILLAGE FLORIST, LLC’S MOTION TO COMPEL DEPOSITIONS; PETITIONER’S MOTION TO STRIKE REGISTRANT’S MOTION TO COMPEL; DECLARATION OF PAUL A. BOST</p>
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I. INTRODUCTION

The Board should deny Registrant Jersey Village Florist, LLC’s (“Registrant”) motion to compel the depositions of Axl Rose and Saul “Slash” Hudson – the lead singer and lead guitarist, respectively, of Guns N’ Roses – for two independent reasons. First, the motion to compel is not ripe because neither Mr. Rose nor Mr. Hudson have failed to attend a noticed deposition. In fact, Registrant has not even noticed their depositions. Second, Registrant has not adequately met and conferred with Petitioner before filing this motion. Rather, Registrant made a demand for deposition dates for Mr. Rose and Mr. Hudson, and when challenged by Petitioner Guns N’ Roses (“Ppetitioner”), Registrant immediately filed this motion to compel after Petitioner did not meet Registrant’s unreasonable deadline for compliance and without further correspondence. Also, Registrant did not serve Petitioner with a copy of its motion, so the Board should strike the motion.

Further, Registrant's motion is substantively deficient and Petitioner stands ready and reserves the right to refute Registrant's arguments that it is entitled to depose Mr. Rose and Mr. Hudson should Registrant file another motion to compel complying with its obligations under the Trademark Rules of Practice. Petitioner did not identify either Mr. Rose or Mr. Hudson in its initial disclosures and does not intend to rely on their testimony in this proceeding. Instead, Petitioner disclosed Fernando Lebeis, Petitioner's personal manager, and Bernard Gilhuly, Petitioner's business manager, to testify to the facts relevant to Petitioner's claims for relief, namely: Petitioner's use of marks consisting of and including GUNS N' ROSES (the "GUNS N' ROSES Marks"); the goods and services offered by Petitioner under the GUNS N' ROSES Marks; the publicity relating to the GUNS N' ROSES Marks and goods and services offered thereunder; registrations of the GUNS N' ROSES Marks with the U.S. Patent & Trademark Office ("PTO"); Petitioner's policing of unauthorized third-party uses of the GUNS N' ROSES Marks; the revenue generated from the sale of goods and services under the GUNS N' ROSES Marks; and Petitioner's expenditures promoting the GUNS N' ROSES Marks and goods and services offered thereunder. Declaration of Paul A. Bost ("Bost Decl.") ¶ 2, Ex. A.

Mr. Rose and Mr. Hudson do not have the best or most complete knowledge about the above subjects or any matters relevant to this proceeding. Registrant does not claim otherwise, instead arguing that Mr. Rose and Mr. Hudson must be deposed regarding questions of Petitioner's ownership of the GUNS N' ROSES Marks. 9 TTABVue 3-4. Even if Registrant's assumptions underlying this argument were correct, Petitioner's ownership of the GUNS N' ROSES Marks is irrelevant. Registrant has not asserted counterclaims to petition to cancel Petitioner's registrations and, furthermore, cannot do so given that they are well over five years old. *See Treadwell's Drifters Inc. v. Marshak*, 18 USPQ2d 1318, 1320 (TTAB 1990) ("Under Section 14(c) of the Trademark Act, a registration existing for over five years may be cancelled

only on the specific grounds enumerated therein, none of which involves ownership of the registered mark.”). Additionally, ownership of a mark is not needed to have standing to pursue a petition for cancellation. *See, e.g., Syngenta Crop Protection, Inc. v. Bio-Chek, LLC*, 90 USPQ2d 1112, 1118, n.8 (TTAB 2009) (“Proof of standing in a Board opposition is a low threshold, intended only to ensure that the plaintiff has a real interest in the matter, and is not a mere intermeddler ... Evidence of an opposer’s actual use of a mark satisfies this requirement, even if that use is purportedly based on a license which has not been clearly established in evidence.”).

Moreover, Mr. Rose and Mr. Hudson are famous celebrities. Both of them are included in *Spin* magazine’s July 6, 2021 article “The 100 Greatest Rock Stars Since That Was A Thing.” Bost Decl. ¶ 3, Ex. B. Journalists and others constantly seek their interviews on a variety of subjects; they grant only a fraction of them. They are pursued by paparazzi and the subject of tabloid and gossip journalism. Their depositions are not only unnecessary, rather they are sought to annoy, embarrass, oppress, and unduly burden Mr. Rose and Mr. Hudson.

However, the Board need not consider Registrant’s substantive arguments in light of the motion’s numerous procedural deficiencies. That said, the motion’s procedural deficiencies relate to and highlight Registrant’s ultimate goal in compelling the depositions of Mr. Rose and Mr. Hudson, which is to harass Petitioner and paint it as a bully, instead of defending against Petitioner’s claims on the merits.

II. STATEMENT OF RELEVANT FACTS

On May 31, 2022, Registrant contacted Petitioner to acknowledge Petitioner’s initial document production and requested that Petitioner identify when Mr. Lebeis, Mr. Rose, and Mr. Hudson were available for deposition. Bost Decl. ¶ 4, Ex. C. On June 6, 2022, Petitioner responded, stating, *inter alia*, “We will let you know when Mr. Lebeis is available for deposition.

Absent a showing that they have unique first-hand, non-repetitive knowledge of the facts at issue in this case, the depositions of Mr. Rose and Mr. Hudson are prohibited under the apex doctrine, at least until Registrant has exhausted other less intrusive discovery methods.” *Id.*

On June 8, 2022, Registrant responded to Petitioner’s email by sending a “demand letter.” In the letter, Registrant set forth its position on Petitioner’s assertion of the apex doctrine and followed up on alleged deficiencies in Petitioner’s responses to Registrant’s written discovery requests,¹ peppered with Registrant’s now common – and baseless – allegations of bad faith and gamesmanship. Registrant demanded, *inter alia*, that Petitioner provide dates for the depositions of Mr. Rose and Mr. Hudson by June 10, 2022 – a mere two days after sending its demand letter. Bost Decl. ¶ 5, Ex. D. Even if Registrant’s demand were reasonable (it is not), both Mr. Hudson and Mr. Axl are currently on tour out of the country.

That same day on June 10th, Petitioner emailed Registrant. Petitioner followed up on matters discussed at the parties’ April 15, 2022 telephonic meet and confer, namely, Registrant’s continued failure to produce documents in response to Petitioner’s discovery requests, and responded to the portion of Registrant’s June 8 letter regarding the adequacy of Petitioner’s responses to Registrant’s written discovery requests and Petitioner’s supplementation of the same (none of which is at issue in the instant motion to compel). At the conclusion of its email (which Registrant did not include in its motion to compel), Petitioner stated that it “will consider your arguments and authority regarding the apex doctrine and will respond under separate cover.” Bost Decl. ¶ 7, Ex. E. Registrant never telephoned Petitioner or scheduled a phone call with Petitioner to discuss the contents of this motion before filing it. Bost Decl. ¶ 8.

¹ The parties had previously conducted a telephonic meet and confer on April 15, 2022 regarding alleged deficiencies in both parties’ written discovery responses. Bost Decl. ¶ 6.

On June 13, 2022, Registrant filed this motion to compel. 9 TTABVue. The motion includes a certificate of service, signed by Registrant’s counsel, stating that “on this the 13th day of June, 2022 a true and correct copy of the foregoing and/or attached was served on each attorney of record or party in accordance with the Trademark Board Manual of Procedure” and identifying the following email addresses: trademarks@sheppardmullin.com and ppost@sheppardmullin.com. Trademarks@sheppardmullin.com is not one of Petitioner’s email addresses of record, and Petitioner’s counsel does not have access to trademarks@sheppardmullin.com and does not believe it to be an active email address. Bost Decl. ¶ 9. ppost@sheppardmullin.com did not receive a copy of the motion from Registrant. *Id.*, ¶ 10. None of Petitioner’s other email addresses of record were identified on the certificate of service, and none of those email addresses received a copy of the motion from Registrant. Bost Decl. ¶ 11.

Registrant has not to date served any notices of deposition on Petitioner, including any notices of deposition of Mr. Rose or Mr. Hudson. Bost Decl. ¶ 12.

III. THE BOARD SHOULD DENY THE MOTION TO COMPEL

A. The Motion is Not Ripe for Adjudication

37 C.F.R. § 2.120(f)(1) states that a party may file a motion to compel “if a party, or such designated person, or an officer, director or managing agent of a party **fails to attend a deposition** or fails to answer any question propounded in a discovery deposition ...”. (Emphasis added.) *See also* 37 C.F.R. § 2.120(h)(2) (“If a party, or an officer, director, or managing agent of a party, or a person designated under Rule 30(b)(6) or 31(a) of the Federal Rules of Civil Procedure to testify on behalf of a party, fails to attend the party’s or person’s discovery deposition, **after being served with proper notice**, ... the Board may make any appropriate order, as specified in paragraph (h)(1) of this section.” (emphasis added); TBMP ¶ 404.03(a)(1)

(“When such a proposed deponent fails to appear for a **noticed deposition**, the deposing party may seek to compel attendance by a motion to compel.” (emphasis added); TBMP ¶ 411.04 (“If a party fails to designate a person pursuant to Fed. R. Civ. P. 30(b)(6) or Fed. R. Civ. P. 31(a)(4), or if a party or such designated person, or an officer, director, or managing agent of a party, **fails to attend a discovery deposition**, or fails to answer any question propounded in a discovery deposition, the party seeking discovery may file a motion with the Board for an order to compel a designation, or attendance at a deposition, or an answer.”) (emphasis added); Fed. R. Civ. P. 30(b)(1) (“A party who wants to depose a person by oral questions **must** give reasonable written notice to every other party. The notice must state the time and place of the deposition and, if known, the deponent’s name and address.”) (emphasis added); *Deepgulf, Inc. v. Moszkowski*, 330 F.R.D. 600, 606 (N.D. Fla. 2019) (“Before a party can move to compel a deposition, it first must show that it served notice of the deposition on the opposing party and that the opposing party failed to attend.”).

Here, neither Mr. Rose nor Mr. Hudson have failed to appear at a deposition. In fact, Registrant has not, to date, noticed the depositions of Mr. Rose or Mr. Hudson. Bost Decl. ¶ 11. Registrant cannot try to cure its deficiency now because this case is suspended pending disposition of this motion. 10 TTABVUE. For this reason alone, the motion is not ripe and must be denied.

B. Registrant Did Not Adequately Meet and Confer with Petitioner

37 C.F.R. § 2.120(f)(1) states that “[a] motion to compel ... discovery must be supported by a showing from the moving party that such party or the attorney therefor has made a good faith effort, by conference or correspondence, to resolve with the other party or the attorney therefor the issues presented in the motion but the parties were unable to resolve their differences.” TBMP § 523.02 expands on this, noting that “[t]he statement should contain a

recitation of the communications conducted including dates, a summary of telephone conversations, and where applicable, copies of any correspondence exchanged such as email and letters, or notes to the file.” *See also Sentrol, Inc. v. Sentex Systems, Inc.*, 231 USPQ 666, 667 (TTAB 1986) (“[W]here the parties disagree as to the propriety of certain requests for discovery, they are under an obligation to get together and attempt in good faith to resolve their differences and to present to the Board for resolution only those remaining requests for discovery, if any, upon which they have been unable, despite their best efforts, to reach an agreement.”).

Registrant’s motion is devoid of any such showing because Registrant did not make a good faith effort to meet and confer with Petitioner. Here is a brief history of the parties’ communications on the subject (as more completely summarized above):

- Tuesday, May 31, 2022: Registrant sends Petitioner an email requesting dates of availability for, *inter alia*, Mr. Rose and Mr. Hudson.
- Monday, June 6, 2022: Petitioner responds to Registrant, explaining that Mr. Rose’s and Mr. Hudson’s depositions should not proceed until Registrant has exhausted other less intrusive discovery methods.
- Wednesday, June 8, 2022: Registrant sends Petitioner a letter that, *inter alia*, provides purported authority for its position that the depositions of Mr. Rose and Mr. Hudson may proceed even if Registrant has not exhausted other less intrusive discovery methods and demanding that Petitioner provide dates for Mr. Rose’s and Mr. Hudson’s deposition by Friday, June 10, 2022.
- Wednesday, June 8, 2022: Petitioner responds to the balance of Petitioner’s June 8, 2022 letter but, as to the depositions of Mr. Rose and Mr. Hudson, states that it “will consider your arguments and authority regarding the apex doctrine and will respond under separate cover.”

- Monday, June 13, 2022: Without any other communication with Petitioner, Registrant files its motion to compel the depositions of Mr. Rose and Mr. Hudson. Bost Decl. ¶¶ 4-7, Exs. C-E.

As evidenced by this timeline, Registrant did not come close to adequately meeting and conferring with Petitioner. Registrant only gave Petitioner two calendar days to consider its purported authorities and provide dates for the depositions of Mr. Rose and Mr. Hudson. Furthermore, Registrant never sought to communicate with Petitioner by phone but kept its communications to email. *Id.*, ¶ 8. This, like Registrant’s failure to actually notice the depositions of Mr. Rose and Mr. Hudson before filing this motion, reflects Registrant’s interest in creating – not resolving – disputes and prematurely seeking Board intervention.

C. The Board Should Strike this Motion Because Registrant Did Not Serve its Motion to Compel on Petitioner

37 C.F.R. § 2.119(a) states that “[e]xcept for the notice of opposition or the petition to cancel, every submission filed in the Office in inter partes cases, including notices of appeal to the courts, must be served upon the other party or parties.” Service must be made by email. 37 C.F.R. § 2.119(b). *See also The Coffee Studio LLC v. Reign LLC dba Coffee Studio*, 129 USPQ2d 1480, 1482 (TTAB 2019) (“All submissions must actually be served upon the other parties to the proceeding ... The automatically generated ESTTA filing notice does not constitute service and does not relieve a party of its obligation to serve a copy of any filing pursuant to the Rules; the filing notice and actual service of the submission are independent of one another.”).

Despite its purported proof of service (9 TTABVue 9), Registrant did not serve a copy of its motion to compel on Petitioner. Registrant’s proof of service states that a “true and correct copy of the foregoing and/or the attached was served on each of attorney of record or party in

accordance with the Trademark Board Manual of Procedure,” and lists the following email addresses: trademarks@sheppardmullin.com and pbost@sheppardmullin.com. *Id.* However, the email address pbost@sheppardmullin.com did not receive a service copy of the motion to compel. Bost Decl. ¶ 10. And trademarks@sheppardmullin.com is neither a valid email address nor one of the addresses of record in this proceeding. *Id.*, ¶ 9. Finally, Registrant did not identify any of the other email addresses of record for Petitioner on its certificate of service, and none of those email addresses received a copy of the motion. Accordingly, the Board should strike the motion and refuse to consider it. *See The Coffee Studio*, 129 USPQ2d at 1482 (“Because Respondent did not effect proper service in accordance with Trademark Rule 2.119 , Petitioner’s motion to strike is granted and Respondent's motion to dismiss will not be considered.”).

IV. CONCLUSION

The Board should deny Registrant’s motion to compel the depositions for the reasons stated above.

SHEPPARD MULLIN RICHTER & HAMPTON LLP

Dated: July 5, 2022

/Paul A. Bost/

Jill M. Pietrini
Paul A. Bost
1901 Avenue of the Stars, Suite 1600
Los Angeles, California 90067-6017
(310) 228-3700
Attorneys for Petitioner Guns N’ Roses

DECLARATION OF PAUL A. BOST

I, Paul A. Bost, hereby declare pursuant to 28 U.S.C. § 1746 that:

1. I am special counsel at the law firm of Sheppard, Mullin, Richter & Hampton LLP, counsel for Petitioner in this action. I make the following statements based on personal knowledge of the facts set forth herein and in support Petitioner's opposition to Registrant's Motion To Compel Depositions and Petitioner's Motion To Strike Registrant's Motion To Compel.

2. A true and correct copy of Petitioner's initial disclosures served in this proceeding are attached hereto as **Exhibit A**.

3. A true and correct printout of portions of *Spin* magazine's July 6, 2021 article "The 100 Greatest Rock Stars Since That Was A Thing" is attached hereto as **Exhibit B**.

4. On May 31, 2022, David Clark, counsel for Registrant, sent me an email to acknowledge Petitioner's initial document production and request that Petitioner identify when Mr. Lebeis, Mr. Rose, and Mr. Hudson were available for deposition. On June 6, 2022, I responded to Mr. Clark's email. A true and correct copy of that email exchange is attached hereto as **Exhibit C**.

5. On June 8, 2022, Mr. Clark sent me an email attaching a "demand letter." A true and correct copy of that email and letter is attached hereto as **Exhibit D**.

6. On April 15, 2022, Mr. Clark and I conducted a telephonic meet and confer regarding alleged deficiencies in both parties' written discovery responses.

7. On June 8, 2022, I emailed Mr. Clark to follow up on matters discussed at the parties' April 15, 2022 telephonic meet and confer, namely, Registrant's continued failure to produce documents in response to Petitioner's discovery requests, and responded to the portion of Registrant's June 8 letter regarding the adequacy of Petitioner's responses to Registrant's written

discovery requests and Petitioner's supplementation of the same (none of which is at issue in the instant motion to compel). At the conclusion of my email (which Registrant did not include in its motion to compel), I told Mr. Clark that Petitioner "will consider your arguments and authority regarding the apex doctrine and will respond under separate cover." A true and correct copy of that email is attached hereto as **Exhibit E**.

8. Mr. Clark never telephoned me or scheduled a phone call with me to discuss the contents of Petitioner's motion before filing the motion.

9. Trademarks@sheppardmullin.com is not one of Petitioner's email addresses of record, and neither I nor anyone else acting on Petitioner's behalf at Sheppard Mullin has access to trademarks@sheppardmullin.com. It is my understanding that trademarks@sheppardmullin.com is not an active email address.

10. I did not receive a copy of the motion from Mr. Clark at my pbost@sheppardmullin.com email address or any other email address.

11. Registrant's certificate of service attached to the motion to compel did not include any of Petitioner's other email addresses of record. I verified with the individuals monitoring these accounts that they did not receive a copy of the motion to compel sent by Registrant.

12. Registrant has not to date served any notices of deposition on Petitioner, including any notices of deposition of Mr. Rose or Mr. Hudson.

I hereby declare under the penalty of perjury under the laws of the United States that the foregoing statements are true and correct. Executed in Los Angeles, California on this 5th day of July, 2022.

/s/Paul A. Bost
Paul A. Bost

CERTIFICATE OF FILING

I hereby certify that this **PETITIONER GUNS N' ROSES' OPPOSITION TO REGISTRANT JERSEY VILLAGE FLORIST, LLC'S MOTION TO COMPEL DEPOSITIONS; PETITIONER'S MOTION TO STRIKE REGISTRANT'S MOTION TO COMPEL; DECLARATION OF PAUL A. BOST** is being filed with the Trademark Trial and Appeal Board via ESTTA on this 5th day of July, 2022.

/Monica Danner/

Monica Danner

CERTIFICATE OF SERVICE

I hereby certify that this **PETITIONER GUNS N' ROSES' OPPOSITION TO REGISTRANT JERSEY VILLAGE FLORIST, LLC'S MOTION TO COMPEL DEPOSITIONS; PETITIONER'S MOTION TO STRIKE REGISTRANT'S MOTION TO COMPEL; DECLARATION OF PAUL A. BOST** is being transmitted and served via email to rdrinnon@mccathernlaw.com, snunez@mccathernlaw.com, and dclark@mccathernlaw.com on this 5th day of July, 2022.


/Monica Danner/

Monica Danner

SMRH:4870-0421-5589.2

Exhibit A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

<i>In re Matter of Reg. No. 5,078,499 for the trademark TEXAS GUNS AND ROSES.COM & Design in Classes 6 and 35</i>  Guns N' Roses, Petitioner, v. Jersey Village Florist, LLC, Registrant.	Cancellation No. 92-078395 PETITIONER GUNS N' ROSES' INITIAL DISCLOSURES
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Pursuant to 37 C.F.R. § 2.120 (a) and Federal Rule of Civil Procedure 26(a)(1), Petitioner Guns N' Roses ("Petitioner") hereby makes the following initial disclosures to Registrant Jersey Village Florist, LLC ("Registrant").

I. RESERVATIONS

Petitioner's initial disclosures are made without waiver of, or prejudice to, any objections that Petitioner may have. Petitioner expressly reserves all such objections, including but not limited to: (a) relevance; (b) attorney-client privilege; (c) work-product protection; (d) any other applicable privilege or protection under federal or state law; (e) undue burden; (f) materiality; (g) overbreadth; (h) the admissibility in evidence of these initial disclosures or the subject matter

thereof; (i) proprietary and confidential business information, financial data, and trade secrets that belong either to Petitioner or to individuals and entities with whom Petitioner conducts, or has conducted, business; and (j) documents containing information disclosed or transmitted to any state or federal agency, to the extent such information is confidential and not required to be disclosed under applicable law. All objections are expressly preserved, as are Petitioner's rights to move for entry of a protective order.

Petitioner makes these disclosures based upon information reasonably available at this time. Petitioner has not completed its discovery in this case and has not completed preparation for its testimony period. Accordingly, these initial disclosures are provided without prejudice to Petitioner's right to introduce during its testimony period any evidence that is subsequently discovered. Petitioner reserves the right to clarify, amend, modify, or supplement the information contained in these initial disclosures in accordance with the TBMP, the Federal Rule of Civil Procedure, and the Trademark Rules of Practice.

II. WITNESSES

Petitioner is aware of the following persons likely to have discoverable information that Petitioner may use to support its claims and defenses. All of Petitioner's witnesses identified below shall be contacted through counsel, Jill M. Pietrini, Sheppard, Mullin, Richter & Hampton LLP, 1901 Avenue of the Stars, Suite 1600, Los Angeles, CA 90067-6055, Telephone: (310) 228-3700, Facsimile: (310) 228-3701:

<u>Petitioner's Witnesses</u>	<u>Registrant's Witnesses</u>
Fernando Lebeis, Personal Manager, Petitioner <i>Subject matter:</i> Petitioner's use of marks consisting of and including GUNS N' ROSES (the "GUNS N' ROSES Marks"); the goods	Sami Shbeeb, Manager, Registrant <i>Subject matter:</i> Registrant's selection of the TEXAS GUNS AND ROSES & Design mark; Registrant's knowledge of Petitioner and the GUNS N' ROSES Marks, and any products or

<u>Petitioner's Witnesses</u>	<u>Registrant's Witnesses</u>
and services offered by Petitioner under the GUNS N' ROSES Marks; the publicity relating to the GUNS N' ROSES Marks and goods and services offered thereunder; registrations of the GUNS N' ROSES Marks with the U.S. Patent & Trademark Office ("PTO"); and Petitioner's policing of unauthorized third-party uses of the GUNS N' ROSES Marks.	services offered thereunder; the goods or services offered by Registrant under the TEXAS GUNS AND ROSES & Design mark and the customers to whom and channels of trade in which such goods or services are offered; the commercial activities undertaken by Registrant under the TEXAS GUNS AND ROSES & Design mark; Registrant's registration of the TEXAS GUNS AND ROSES & Design mark with the PTO; the revenue generated from Registrant's sale of goods and services under the TEXAS GUNS AND ROSES & Design mark; Petitioner's use of the TEXAS GUNS AND ROSES & Design mark for metal safes; and actual confusion or association between Petitioner and Registrant or between their goods and services.
Bernie Gilhuly, Business Manager, Petitioner <i>Subject matter:</i> The revenue generated from the sale of goods and services under the GUNS N' ROSES Marks; and Petitioner's expenditures promoting the GUNS N' ROSES Marks and goods and services offered thereunder.	FRCP 30(b)(6) Witness(es) <i>Subject matter:</i> Registrant's selection of the TEXAS GUNS AND ROSES & Design mark; Registrant's knowledge of Petitioner and the GUNS N' ROSES mark, and any products or services offered thereunder; the goods or services offered by Registrant under the TEXAS GUNS AND ROSES & Design mark and the customers to whom and channels of trade in which such goods or services are offered; the commercial activities undertaken by Registrant under the TEXAS GUNS AND ROSES & Design mark; Registrant's registration of the TEXAS GUNS AND ROSES & Design mark with the PTO; the revenue generated from Registrant's sale of goods and services under the TEXAS GUNS AND ROSES & Design mark; and actual confusion or association between Petitioner and Registrant or between their goods and services.
FRCP 30(b)(6) Witness Petitioner <i>Subject matter:</i> Petitioner's use of the "GUNS	Veronica Montemayor, McCathern <i>Subject matter:</i> Registrant's application to register the TEXAS GUNS AND ROSES &

<u>Petitioner's Witnesses</u>	<u>Registrant's Witnesses</u>
N' ROSES Marks"; the goods and services offered by Petitioner under the GUNS N' ROSES Marks and the types of customers to whom and channels of trade in which such goods or services are offered; the revenue generated from the sale of licensed goods and services under the GUNS N' ROSES Marks; and Petitioner's expenditures promoting the GUNS N' ROSES Marks and goods and services offered thereunder.	Design mark.

III. DOCUMENTS

The following categories of documents and things are in Petitioner's custody, control, or possession and may be used by Petitioner to support its claims in this action.

<ul style="list-style-type: none"> • Documents from www.uspto.gov regarding Petitioner's and Registrant's trademark registrations at issue in this action
<ul style="list-style-type: none"> • Photographs and screen-captures of Petitioner's products and documents associated with Petitioner's goods and services bearing the GUNS N' ROSES Marks
<ul style="list-style-type: none"> • Advertisements and marketing and promotional materials showing Petitioner's use of the GUNS N' ROSES Marks
<ul style="list-style-type: none"> • Publicity regarding goods and services offered under the GUNS N' ROSES Marks by Petitioner
<ul style="list-style-type: none"> • Pursuant to a protective order, confidential documents reflecting Petitioner's revenue earned from its use of the GUNS N' ROSES Marks for goods and services
<ul style="list-style-type: none"> • Pursuant to a protective order, confidential documents reflecting Petitioner's expenditures promoting the GUNS N' ROSES Marks and goods and services offered thereunder
<ul style="list-style-type: none"> • Evidence of Petitioner's policing of unauthorized uses of the GUNS N' ROSES Marks
<ul style="list-style-type: none"> • Photographs and screen-captures of Registrant's products bearing, and documents associated with Registrant's services offered under, the TEXAS GUNS AND ROSES & Design mark
<ul style="list-style-type: none"> • Communications between Petitioner and Registrant
<ul style="list-style-type: none"> • Documents and things produced by Petitioner in this action

- Documents and things produced by Registrant in this action

SHEPPARD MULLIN RICHTER & HAMPTON LLP

Dated: February 16, 2022

/Jill M. Pietrini/

Jill M. Pietrini

Paul A. Bost

1901 Avenue of the Stars, Suite 1600

Los Angeles, California 90067-6017

(310) 228-3700

Attorneys for Petitioner Guns N' Roses

CERTIFICATE OF SERVICE

I hereby certify that this **PETITIONER GUNS N' ROSES' INITIAL DISCLOSURES** is being transmitted and served via email to rdrinnon@mccathernlaw.com, agordon@mccathernlaw.com, and scampos@mccathernlaw.com on this 16th day of February, 2022.

/Brenda Smith/

Brenda Smith

SMRH:4873-4212-0202.1

Exhibit B



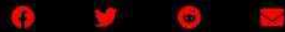
[NEW MUSIC](#) [NEWS](#) [FEATURES](#) [SPIN TV](#) [LISTS](#) [ARCHIVES](#) [IMPACT](#)
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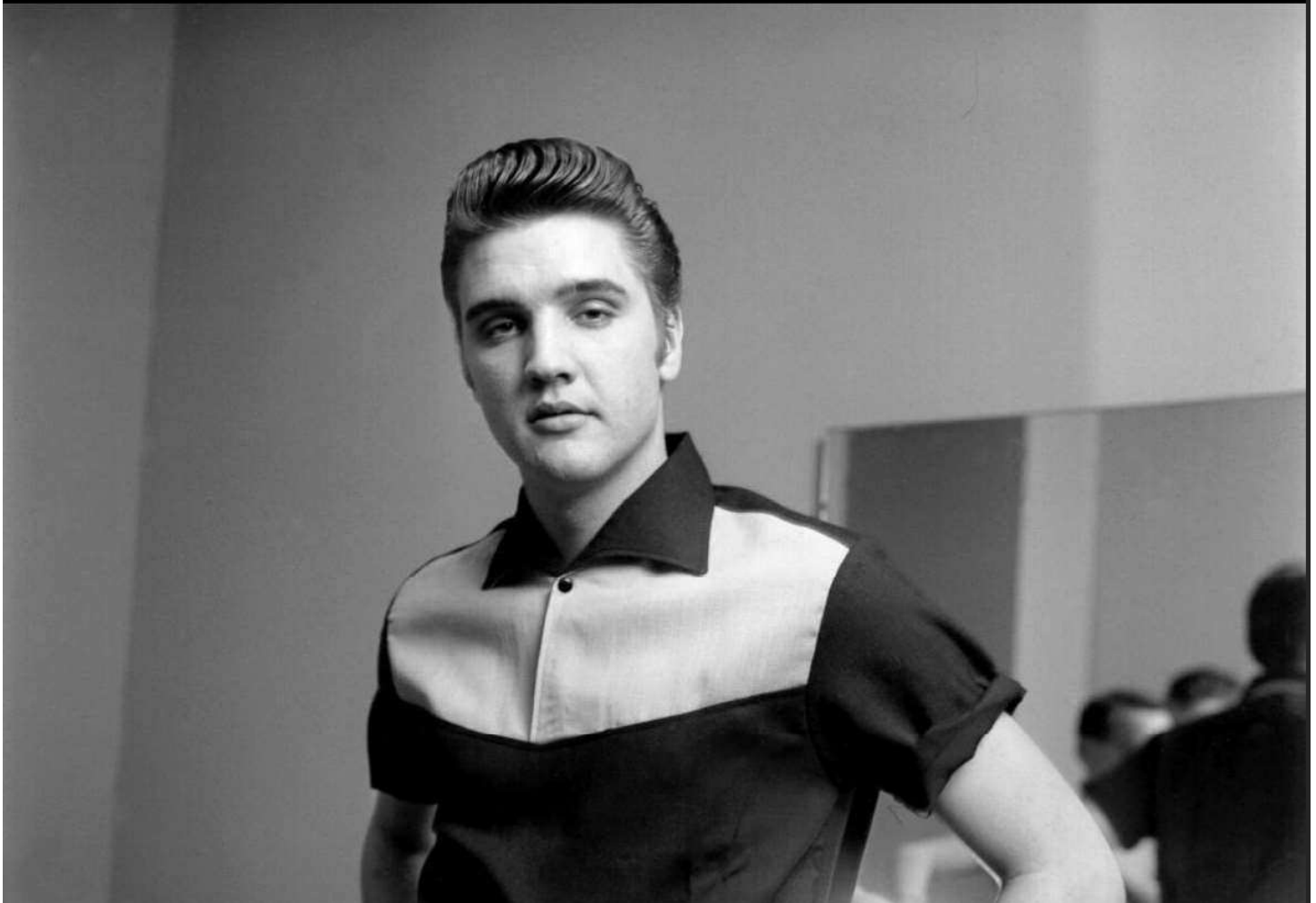
FEATURES, LISTS

The 100 Greatest Rock Stars Since That Was A Thing

Written By Bob Guccione Jr | July 6, 2021 - 12:10 pm



[Home](#) » [Features](#) » The 100 Greatest Rock Stars Since That Was A Thing





(Credit: Mark and Colleen Hayward/Redferns)

Jones really did die before he got old, and is a charter member of the eerie "27 Club" of rock superstars who died at the tragically early and precious age of 27. He was found dead in his swimming pool, a presumed accident following drug overindulgence, a possible suicide, a whispered rumored murder. I guess it doesn't matter anymore, if it ever did. Brian was the founder of the Rolling Stones (not Mick!) and its true musical guiding force. He was also the ultimate rock star, still a nascent concept in the mid-'60s, fashion setting, sexy and sex-soaked — he, more than Mick originally, was the ones the girls all wanted. He flamed out, inevitably, dying just weeks after leaving the band because he'd become disillusioned with their musical direction. *BGJ*

91 Axl Rose

Decked out in a kilt, a ball gag around his neck and his strawberry-blond hair ratted high, Indiana's **Axl Rose** was a new breed of rock star on the L.A. scene in the mid-'80s. With his lineup of debaucherous street urchins, early Axl was a pinup-worthy screamer who captured the personal decadence of his Hollywood on the classic *Appetite For Destruction*. Roses' piercing bluesy vocals and arena-ready stage presence made him the only choice to fill in as AC/DC's frontman in 2016, bridging the distance between the fabled Bon Scott and lusty vocalist Brian Johnson. *KT*

90 Steven Van Zandt

He's just a rock star — he just is. He was originally and is again Springsteen's musical *consigliere* (just as he was Tony Soprano's, really). His place in the E Street Band is rock immortality right there, and his solo career has been stellar even if not on the same commercial level as with Bruce. He's in it for the joy of playing rock 'n roll. and that's what we get from him.



Paul Natkin/Getty Images

I was in Vezelay, France in 1991, on vacation with my girlfriend, an MTV VJ — so, two music professionals but at that moment wide-eyed tourists — and as we walked down a narrow, ancient, cobbled street, we heard Public Enemy's "Fight The Power" blaring from a window above us. I looked up and there was a white kid with a baseball cap on backwards, glaring down contemptuously at the stream of tourists beneath him, and I said to Kristiane: "That's why rock 'n roll will never die, because in every town in the world, no matter how beautiful it is, there's a kid dying to get out."

There were many pivotal moments and players in the fast moving evolution of rap and you could point to a few as particularly instrumental in making it mainstream. But Public Enemy slammed the barn door shut on rap's outlier status and they did it without a scintilla of compromise. For a while, there was no more important, or popular, group on the planet. Chuck D was an angry, articulate Black man, and a force for change. He stood for, and shaped, a revolution, and everyone listened. And it was great music, not at all bitter medicine. *BGJ*

57 Tom Petty

Rock's true mad hatter, has anyone written better songs with a simple formula ("Don't Come Around Here No More" withstanding)? Petty ushered in a new era of anthemic rock songs that comprised kickass instrumentation, relatable lyrics that there were just *good*. Oh, and remember *Hard Promises*, the album where took on his record label over price gauging and won to save his fans a dollar? Now THAT'S a rock star. *DK*

56 Slash

On top of being the slithery heart and soul of Guns N' Roses' sound, *Slash* made the top hat cool again, snatching it back from boffo magicians. After he departed the band under acrimonious circumstances in 1996, Slash was literally everywhere (and Guns N' Roses was never the same without him) before finding his way home again in 2016 for one of the profitable reunions in rock history. Don't believe us about his prolificness? Maybe you'll believe these guys. *DK*



Exhibit C

Beth Anderson

From: David Clark <dclark@mccathernlaw.com>
Sent: Tuesday, May 31, 2022 8:08 AM
To: Paul Bost; Jill Pietrini; Monica Danner; Beth Anderson
Cc: Rodney Drinnon; Simone Nunez
Subject: GNR v. Jersey Village Florist - discovery matters

Paul,

We received Petitioner's initial product over the weekend. Thank you. For your information, we continue to gather responsive documents on behalf of Registrant. We hope to produce documents by the end of this week or early next week.

Meanwhile, please provide dates of availability for depositions of the following individuals:

Fernando Lebeis
W. Axl Rose
Saul Hudson a/k/a "Slash"

We will proactively reach out to Mr. Sami Shbeeb to provide you with his dates of availability for deposition in June and July.

Thank you,

David L. Clark
Senior Counsel
McCATHERN
2000 West Loop S, Suite 1850
Houston, TX 77027

P 832.533.8689 | F 832.213.4842
dclark@mccathernlaw.com
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Exhibit D

Beth Anderson

From: David Clark <dclark@mccathernlaw.com>
Sent: Wednesday, June 8, 2022 8:34 AM
To: Paul Bost
Cc: Rodney Drinnon; Simone Nunez; Jill Pietrini; Monica Danner; Beth Anderson
Subject: RE: GNR v. Jersey Village Florist - discovery matters
Attachments: 220608 Discovery Demand to Petitioner GNR.pdf

Paul,

Please see the attached demand letter.

Thank you,

David L. Clark
Senior Counsel
MCCATHERN
2000 West Loop S, Suite 1850
Houston, TX 77027

P 832.533.8689 | F 832.213.4842
dclark@mccathernlaw.com
www.mccathernlaw.com

From: Paul Bost <PBost@sheppardmullin.com>
Sent: Tuesday, June 7, 2022 12:19 AM
To: David Clark <dclark@mccathernlaw.com>
Cc: Rodney Drinnon <rdrinnon@mccathernlaw.com>; Simone Nunez <snunez@mccathernlaw.com>; Jill Pietrini <JPietrini@sheppardmullin.com>; Monica Danner <MDanner@sheppardmullin.com>; Beth Anderson <baanderson@sheppardmullin.com>
Subject: RE: GNR v. Jersey Village Florist - discovery matters

EXTERNAL EMAIL CAUTION!

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Dear David:

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Thank you providing dates for the deposition of Mr. Shbeeb. Petitioner is unlikely to take his discovery deposition but we will let you know if its position changes.

Best regards,

Paul

Paul Bost

+1 310-228-2249 | direct

PBost@sheppardmullin.com | [Bio](#)

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From: David Clark <dclark@mccathernlaw.com>

Sent: Tuesday, May 31, 2022 8:08 AM

To: Paul Bost <PBost@sheppardmullin.com>; Jill Pietrini <JPietrini@sheppardmullin.com>; Monica Danner <MDanner@sheppardmullin.com>; Beth Anderson <baanderson@sheppardmullin.com>

Cc: Rodney Drinnon <rdrinnon@mccathernlaw.com>; Simone Nunez <snunez@mccathernlaw.com>

Subject: GNR v. Jersey Village Florist - discovery matters

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Thank you,

David L. Clark

Senior Counsel

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MCCATHERN

DAVID L. CLARK
SENIOR COUNSEL
dclark@mccathernlaw.com

June 8, 2022

Mr. Paul A. Bost
Sheppard, Mullin, Richter & Hampton LLP
1901 Avenue of the Stars, Suite 1600
Los Angeles, California 90067
pbost@sheppardmullin.com

Via Email

Re: *Guns N' Roses v. Jersey Village Florist, LLC*, Cancellation No. 92-078395, in the United States Patent and Trademark Office, before the Trademark Trial and Appeal Board (Registration No. 5,078,499, TEXAS GUNS AND ROSES.COM®)

Dear Paul,

Despite no evidence of any potential likelihood of confusion, Petitioner Guns N' Roses ("Petitioner") initiated this trademark proceeding against Registrant Jersey Village Florist, LLC ("Registrant") on November 5, 2021. In the ensuing seven (7) months, Petitioner enacted a series of obstructions to Registrant's reasonable discovery requests. There remains no evidence of a likelihood of confusion, no false suggestion of a connection, and no likelihood of dilution. There is no evidence that Registrant's trademark is likely to damage Petitioner in any capacity.

Based on these facts and in consideration of Petitioner's recent correspondence, we must conclude that Petitioner Guns N' Roses is no more than a trademark bully. We do not take kindly to bullies in Texas. We will proceed accordingly.

"Apex" Doctrine Does Not Apply

Without putting too fine a point on it, there is no legal or factual basis for Petitioner to assert that W. Axl Rose or Saul Hudson a/k/a "Slash" are "apex" deponents who are protected from discovery depositions. Based on the statements in your Petition to Cancel, Petitioner is an unincorporated California partnership "composed of W. Axl Rose, Saul Hudson, and Michael 'Duff' McKagan." This is the first sentence of your pleadings. If there is anyone with unique knowledge of Petitioner's trademark origins and continuing rights, it is these three individuals. They inherently possess first-hand, non-repetitive knowledge of key facts.

Furthermore, contrary to your baseless declaration that "the depositions of Mr. Rose and Mr. Hudson are prohibited under the apex doctrine," neither Rose nor Hudson are corporate employees. Neither are senior corporate executives holding an official title of CEO, CFO, CTO, or other C-suite designation. Moreover, when a witness has personal knowledge of facts relevant to the lawsuit, even a corporate president or CEO is subject to a deposition. *Apple Inc. v. Samsung Elecs. Co. Ltd.*, 282 F.R.D. 259, 263 (N.D. Cal. 2012).

The apex doctrine does not apply to this dispute.¹ Even if it did, Registrant does not bear any burden to demonstrate that it has “exhausted less intrusive discovery methods” as you disingenuously suggest. *See, e.g. In re Transpacific Passenger Air Transp. Antitrust Litig.*, No. C-07-05634 CRB, 2014 WL 939287 (N.D. Cal. March 6, 2014) (rejecting burden-shifting). Petitioner carries a heavy burden to overcome Registrant’s reasonable request to depose the purported owners of the trademark(s) at issue. *La. Pac. Corp. v. Money Mkt. 1 Inst. Dev. Dealer*, 285 F.R.D. 481, 485 (N.D. Cal. 2012).

Notably, based on the documents you produced, there remain substantial questions regarding Petitioner’s standing to seek cancellation of any trademark registrations. Your own documents suggest that Petitioner is not the owner of the GUNS N’ ROSES name and associated mark(s). Based in part on these fact issues, Registrant seeks to depose Rose and Hudson. Pursuant to FED. R. CIV. P. 26 and TBMP §§ 401 *et seq.*, there is no legal or factual basis for Petitioner to unilaterally restrict Registrant’s reasonable discovery requests.

Petitioner’s Continuing Bad Faith Discovery Practices

We previously documented Petitioner’s bad faith discovery practices in our April 8, 2022 correspondence to you. Many of these discovery issues remain unresolved.

Meanwhile, we received Petitioner’s first production of documents on May 28, 2022. Upon review of these documents, Petitioner’s discovery responses remain woefully inadequate. While we are certain that Petitioner will argue that it produced almost 2,000 pages of material, a surface level inspection reveals the duplicitous nature of your efforts. A majority of Petitioner’s document production comprises re-prints of public Wikipedia entries and screenshots of e-commerce sites selling t-shirts.

To quote a recent commercial: “we do not need to print the internet.”

Additionally, none of your document production demonstrates any purported “fame” of Petitioner’s marks in trade channels that overlap with Registrant’s use of its own registered trademark. Specifically, your discovery continues to fall short of your burden to demonstrate Petitioner’s mark is allegedly famous in Classes 006 or 035. Petitioner has the exclusive burden to prove that any purported “fame” exists. *Leading Jewelers Guild Inc. v. LJOW Holdings LLC*, 82 U.S.P.Q.2d 1901, 1904 (TTAB 2007).

We are no longer surprised by your gamesmanship. In responding to Registrant’s first discovery requests, Petitioner refused to cooperate until a tailor-made protective order was entered. Registrant understood this to mean that Petitioner would produce “confidential” documents which required special protections. We agreed to your request. On April 8, 2022, Registrant provided you written approval to file your proposed protective order.

¹ We recognize that you anticipated Registrant’s deposition requests before they were made. This is presumably why Petitioner knowingly refused to identify Rose, Hudson, or McKagan as individuals with relevant knowledge in its February 16, 2022 Initial Disclosures. This is yet another example of Petitioner’s bad faith discovery practices.

Mr. Paul A. Bost
June 8, 2022
Page 3

Nevertheless, you delayed filing the approved protective order *for an entire month*. We had to remind you to file your own document on May 9, 2022 [TTAB Dkt. No. 6].

Even after your Protective Order was submitted to the Board, precisely zero (0) pages within your subsequent document production reflect confidential or otherwise proprietary information. You provided no financial information, no internal correspondence, and no documents which were not already publicly available to anyone with an internet connection.

Nor has Petitioner supplemented its April 4, 2022 discovery responses, despite its counsel's promises to do so during a "meet and confer" telephone conference on April 15, 2022.

Registrant's Discovery Demands

Based on the foregoing, Registrant demands the following:

1. Provide dates of availability for the discovery depositions of W. Axl Rose and Saul Hudson a/k/a "Slash" by **Friday, June 10, 2022**;
2. Amend and supplement Petitioner's April 4, 2022 answers and responses to Registrant's First Set of Discovery Requests as previously promised; and
3. Supplement Petitioner's document production to comply with the entire scope of Registrant's February 18, 2022 Requests for Production, including "confidential" documents which are now discoverable pursuant to the parties' May 9, 2022 Modified Protective Order.

Should Petitioner continue to refuse to provide deposition dates, Registrant will file a Motion to Compel pursuant to 37 C.F.R. § 2.120(e), FED. R. CIV. P. 37, and TBMP §§ 523 *et seq.* Alternatively, Petitioner is free to dismiss its Petition to Cancel at any time.

Should you have any further questions or comments with respect to the issues in this letter, please feel free to contact me at any time by telephone or email to discuss this matter further.

Sincerely,



David L. Clark

cc: Jill M. Pietrini
jpierini@sheppardmullin.com

Via email

Exhibit E

Beth Anderson

From: Paul Bost
Sent: Wednesday, June 8, 2022 10:39 AM
To: David Clark
Cc: Rodney Drinnon; Simone Nunez; Jill Pietrini; Monica Danner; Beth Anderson
Subject: RE: GNR v. Jersey Village Florist - discovery matters
Attachments: Guns N' Rose's First Supplemental Responses to Interrogatories (Set One).pdf

Dear David:

We still have not received any document production from Registrant despite your "hope to produce documents by the end of [last] week or early [this] week." Also, you have not responded to my question as to whether the production will include Registrant's "gross revenues earned under its trademark at issue." Petitioner needs these documents well in advance of the deadline for expert disclosures, which is currently July 16, 2022. Petitioner requests Registrant's production of its initial document production, including documents reflecting Jersey Village's gross revenues, and compliance with the other discovery deficiencies identified in my letter of March 31, 2022, by June 10, 2022. If Petitioner needs additional time to comply with its discovery obligations, Registrant will agree to an extension of this deadline provided the parties also agree to an extension of all pending deadlines in this proceeding.

Petitioner is still collecting non-confidential and confidential documents for production and will produce them on a rolling basis as soon as possible. As you recognized and understood during our April 15, 2022 meet and confer, due to the size of their respective operations, it will naturally take Petitioner longer to collect its documents – particularly confidential documents – than it will take Registrant. There is nothing "duplicitous" about Petitioner's production of publicly available documents, whether they were printed from the internet or otherwise. These documents – which include evidence of Petitioner's use of its GUNS N' ROSES trademark in commerce, email newsletters, and documents reflecting Petitioner's enforcement of its trademark rights – are responsive to Petitioner's document requests and, contrary to your statement otherwise, reflect the fame of the GUNS N' ROSES trademark.

Registrant has no evidence supporting its position that "Petitioner refused to cooperate until a tailor-made protective order was entered." On the contrary, Petitioner raised the issue of the revised protective order at the parties' Rule 26(f) discovery conference and I circulated the revised protective order on January 19, 2022, well before either party had served their initial disclosures or first sets of discovery requests. Registrant did not respond to Petitioner's request to respond to the revised protective order until our telephonic meet and confer on April 15, 2022. Petitioner's delay in filing the protective order from April 15, 2022 to May 9, 2022 was nothing more than an innocent, inadvertent delay. This was a much shorter delay than Registrant's nearly 3 month delay in responding to our proposed revisions, which delay – contrary to Registrant's kneejerk reaction to assume bad faith on the part of Petitioner – we assume was inadvertent and innocent and not undertaken in bad faith.

Finally, you state that Petitioner has not "supplemented its April 4, 2022 discovery responses, despite its counsel's promises to do so during a 'meet and confer' telephone conference on April 15, 2022." That is false. I never promised to supplement any discovery responses at the April 15, 2022 meet and confer. If you have writing to the contrary, please provide it. Nevertheless, attached hereto is a service copy of Petitioner's first supplemental responses to Registrant's first set of interrogatories.

We will consider your arguments and authority regarding the apex doctrine and will respond under separate cover.

Best regards,

Paul

Paul Bost

+1 310-228-2249 | direct

PBost@sheppardmullin.com | [Bio](#)

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From: David Clark <dclark@mccathernlaw.com>

Sent: Wednesday, June 8, 2022 8:34 AM

To: Paul Bost <PBost@sheppardmullin.com>

Cc: Rodney Drinnon <rdrinnon@mccathernlaw.com>; Simone Nunez <snunez@mccathernlaw.com>; Jill Pietrini <JPietrini@sheppardmullin.com>; Monica Danner <MDanner@sheppardmullin.com>; Beth Anderson <baanderson@sheppardmullin.com>

Subject: RE: GNR v. Jersey Village Florist - discovery matters

Paul,

Please see the attached demand letter.

Thank you,

David L. Clark

Senior Counsel

MCCATHERN

2000 West Loop S, Suite 1850

Houston, TX 77027

P 832.533.8689 | F 832.213.4842

dclark@mccathernlaw.com

www.mccathernlaw.com

From: Paul Bost <PBost@sheppardmullin.com>

Sent: Tuesday, June 7, 2022 12:19 AM

To: David Clark <dclark@mccathernlaw.com>

Cc: Rodney Drinnon <rdrinnon@mccathernlaw.com>; Simone Nunez <snunez@mccathernlaw.com>; Jill Pietrini <JPietrini@sheppardmullin.com>; Monica Danner <MDanner@sheppardmullin.com>; Beth Anderson <baanderson@sheppardmullin.com>

Subject: RE: GNR v. Jersey Village Florist - discovery matters

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Attention: This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

<i>In re Matter of Reg. No. 5,078,499 for the trademark TEXAS GUNS AND ROSES.COM & Design in Classes 6 and 35</i>  Guns N' Roses, Petitioner, vs. Jersey Village Florist, LLC, Registrant.	Cancellation No. 92-078395 PETITIONER GUNS N' ROSES' FIRST SUPPLEMENTAL RESPONSES TO REGISTRANT JERSEY VILLAGE FLORIST, LLC'S FIRST SET OF INTERROGATORIES
--	--

Pursuant to Fed. R. Civ. P. 33 and 37 C.F.R. § 2.120, Petitioner Guns N' Roses ("Guns N' Roses") provides supplemental responses to Registrant Jersey Village Florist, LLC's ("Registrant") First Set of Interrogatories as follows:

PRELIMINARY STATEMENT

These responses are made solely for the purposes of this action. Any admission or document supplied in response to any particular interrogatory are or will be supplied by Guns N' Roses subject to all objections as to competence, relevance, materiality, propriety, admissibility, and any and all other objections on any grounds that would require the exclusion of the admission or document or portion thereof if such admission or document were offered into evidence, all of which objections and grounds are hereby expressly reserved and may be interposed during testimony in this case.

No incidental or implied admissions are intended by the responses herein. The fact that Guns N' Roses has supplied or agreed to supply, or hereafter supplies or agrees to supply,

information or a document in response to any particular interrogatory should not be taken as an admission that Guns N' Roses accepts or admits the existence of any fact set forth or assumed by such interrogatory or said document or that such document constitutes admissible evidence. The fact that Guns N' Roses has supplied or agreed to supply, or hereafter supplies or agrees to supply, information or a document in response to any interrogatory is not intended, and shall not be construed as a waiver by Guns N' Roses of any part of any objection to any such interrogatory or any part of any general objection. The fact that Guns N' Roses makes a response and/or objection to any interrogatory is not intended, and shall not be construed, as an admission that information or documents responsive to that interrogatory exist or are in Guns N' Roses' possession, custody, or control.

Guns N' Roses reserves the right to make changes to these responses if it appears that omissions or errors have been made herein, or that future or more accurate information is available. Guns N' Roses has not completed its own investigation and discovery. Therefore, the following responses state Guns N' Roses' knowledge, information, and belief as of the date of such responses, and Guns N' Roses expressly reserves the right to rely upon and/or introduce into evidence at trial such additional documents as Guns N' Roses may discover.

GENERAL OBJECTIONS

The following General Objections apply to each and every interrogatory and shall have the same force and effect as if fully set forth in the response to each.

1. Guns N' Roses objects to each interrogatory insofar as it is unintelligible, vague, overly broad, oppressive, harassing or vexatious; imposes burden or expense that outweighs its likely benefit; seeks information equally available to Registrant and Guns N' Roses; seeks information not relevant to the claim or defense of any party and/or disproportionate to the needs of the case; seeks Guns N' Roses' confidential information; seeks information not within Guns

N' Roses' possession, custody, or control; does not describe with reasonable particularity the information and/or documents requested; contains erroneous and/or contentious factual allegations or legal assertions; and/or seeks information related to facts, events or activities, or documents dated, prepared or received after the commencement of this action.

2. Guns N' Roses objects to the interrogatories and the accompanying definitions and instructions to the extent they seek to impose upon Guns N' Roses burdens and obligations not contemplated by the FRCP, the CFR, the TBMP, or other applicable law.

3. Guns N' Roses objects to the interrogatories, including the definitions and instructions set forth therein, to the extent they seek disclosure of information and/or documents that come within the scope of the attorney-client privilege, the work product doctrine, or any other applicable privilege, immunity, and/or protection against disclosure. Such information and/or documents will not knowingly be disclosed. Any inadvertent production of information and/or documents protected from disclosure by the attorney-client privilege, the work product doctrine or any other applicable privilege, immunity, and/or protection is not intended to be and shall not be: (a) a waiver of such privilege, immunity, and/or protection in whole or in part; or (b) a waiver of the right to object to any use of such document or of the information contained therein in this or any other proceeding.

4. Guns N' Roses objects to each interrogatory to the extent that it: (a) seeks disclosure of information and documents that would violate the privacy rights of individuals; or (b) seeks disclosure of confidential business or commercial information and documents, trade secrets, and/or proprietary information and documents, including financial information and documents, of Guns N' Roses or third parties. Guns N' Roses will only produce documents reflecting such information pursuant to a protective order entered in this action.

5. Guns N' Roses' responses are made to the best of its current knowledge,

information, and belief, and are made according to documents or information currently in Guns N' Roses' possession, custody, or control. Guns N' Roses does not represent that any information or documents actually exist, but that it will, as appropriate, make a good faith search and attempt to ascertain whether information or documents responsive to these requests do in fact exist.

6. Guns N' Roses is responding to the interrogatories as it interprets and understands them. If Registrant subsequently asserts an interpretation of a request that differs from Guns N' Roses' understanding, Guns N' Roses reserves the right to supplement its objection and/or response to that request.

7. Guns N' Roses objects to the interrogatories to the extent they call for the production of information or documents that are already in the public domain, already in Registrant's possession, custody, or control, or otherwise available to Registrant through more closely involved third parties, and therefore are substantially less burden for Registrant to obtain than for Guns N' Roses to obtain.

8. Guns N' Roses makes the objections and responses set forth below without in any manner waiving: (a) the right to object to the use of any response for any purpose in this action or any other actions on grounds of privilege, relevancy, materiality, or any other appropriate basis; (b) the right to object to any other requests involving, or relating to, the subject matter of the responses herein; (c) the right to revise, correct, supplement, or clarify any of the responses provided below at any time; (d) the right to assert the attorney-client privilege, work product protections, or any other applicable privilege; and (e) the right to assert any additional or supplemental objections should additional grounds for such objections become apparent. Guns N' Roses expressly reserves the right to supplement its responses.

SUPPLEMENTAL RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 9:

Describe with specificity and identify all documents supporting where You have manufactured, marketed, or sold any GUNS N' ROSES labeled products in the United States with respect to "retail store services and online retail store services in the field of outdoor hunting equipment, including handguns, rifles, shotguns, suppressors, knives and multi- tools, holsters, magnified optics, mounts, binoculars, gun safes, magazines, and other related accessories."

RESPONSE TO INTERROGATORY NO. 9:

Guns N' Roses objects to this interrogatory on the grounds that it is overbroad and burdensome, particularly because it is unlimited in time. Guns N' Roses objects to this interrogatory on the grounds that it is vague and ambiguous, and nonsensical.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9:

Subject to the foregoing objections, and to the extent it understands the interrogatory based, in part, on Registrant's clarification of this interrogatory in its April 8, 2022 letter, Guns N' Roses responds as follows: Guns N' Roses is not aware of any documents or other information supporting where it has manufactured, marketed, or sold any outdoor hunting equipment, including handguns, rifles, shotguns, suppressors, knives and multi- tools, holsters, magnified optics, mounts, binoculars, gun safes, magazines, and other related accessories under the GUNS N' ROSES mark.

INTERROGATORY NO. 11:

Identify with specificity all entities that market and/or sell goods or services represented by the same goods and services identified by both Registrant's Marks and Petitioner's marks.

RESPONSE TO INTERROGATORY NO. 11:

Guns N' Roses objects to this interrogatory on the grounds it is overbroad and burdensome, particularly because it identification of "all entities." Guns N' Roses objects to this interrogatory on the grounds that it is vague, ambiguous, and incomprehensible and, thus,

precludes Guns N' Roses from responding.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 11:

Subject to the foregoing objections, and to the extent it understands the interrogatory based, in part, on Registrant's clarification of this interrogatory in its April 8, 2022 letter, Guns N' Roses responds as follows: Walmart, Sam's Club, Amazon, Kmart, Target, Cabela's, Bass Pro Shops, Dick's Sporting Goods, Big Five, Costco, Kohl's, and BJ's Wholesale Club.

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

Dated: June 8, 2022

By: /s/Paul A. Bost
Jill M. Pietrini
Paul A. Bost
Attorneys for Petitioner
GUNS N' ROSES

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **PETITIONER GUNS N' ROSES' FIRST SUPPLEMENTAL RESPONSES TO REGISTRANT JERSEY VILLAGE FLORIST, LLC'S FIRST SET OF INTERROGATORIES** has been served upon the attorney for Registrant by emailing a copy to rdrinnon@mccathernlaw.com, snunez@mccathernlaw.com, and dclark@mccathernlaw.com on this 8th day of June, 2022.

/s/Paul A. Bost
Paul A. Bost

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